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Seventy-third year

Provisional

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 Tuesday, 11 December 2018, 10.05 a.m.
 New York

President: Mr. Adom (Côte d'Ivoire)

<i>Members:</i>	Bolivia (Plurinational State of)	Mr. Miranda Rivero
	China	Mr. Liu Yang
	Equatorial Guinea	Mr. Ndong Mba
	Ethiopia	Ms. Habtemariam
	France	Mrs. Gasri
	Kazakhstan	Mr. Temenov
	Kuwait	Mr. Albanai
	Netherlands	Mr. Van Oosterom
	Peru	Mr. Meza-Cuadra
	Poland	Ms. Wronecka
	Russian Federation	Mr. Kuzmin
	Sweden	Ms. Schoulgin Nyoni
	United Kingdom of Great Britain and Northern Ireland ..	Mrs. Dickson
	United States of America	Mr. Cohen

Agenda

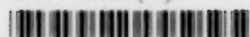
International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2018/569)

Letter dated 19 November 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/1033)

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The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2018/569)

Letter dated 19 November 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/1033)

The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to participate in this meeting.

On behalf of the Council, I welcome Her Excellency Ms. Nela Kuburović, Minister of Justice of Serbia.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2018/569, which contains a note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals.

I also wish to draw attention of the Members to document S/2018/1033, which contains a letter dated 19 November 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council.

I now give the floor to Judge Meron.

Judge Meron: Today marks my final appearance before the Security Council as President of the International Residual Mechanism for Criminal Tribunals. It has been a profound privilege to serve in this role since the founding of the institution, and it

is an honour for me to provide my last briefing to the Council on the progress of the work of the Mechanism.

(spoke in French)

Before doing so, I would like to congratulate His Excellency Mr. Adom, Ambassador of the Côte d'Ivoire, on his country's accession to the presidency of the Security Council and wish him every success in that role.

(spoke in English)

I would also like to take this opportunity to convey my deep appreciation for the considerable attention and commitment shown by the members of the Council's Informal Working Group on International Tribunals both now, under Peru's expert leadership, and during the many years that I have been appearing before the Council. The support and engagement of the Working Group has been invaluable to the success of the Mechanism and, before that, of the International Criminal Tribunals for Rwanda and for the former Yugoslavia. Finally, as always, I must underscore my tremendous gratitude for all of the assistance provided to the Mechanism by the Office of Legal Affairs, as well as to the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, and the Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias, and their dedicated teams.

Over the past six months, notwithstanding a challenging budgetary situation and the myriad operational consequences engendered thereby, the Mechanism continued to make significant strides in the conduct and completion of the mandate entrusted to it by the Council. From the provision of vital assistance to national jurisdictions to the methodical preservation of materials in the archives, and from the sustained protection afforded to vulnerable victims and witnesses to the enforcement of sentences across two continents, the Mechanism and its staff continued to carry out key residual functions inherited from its predecessor Tribunals with steadfast professionalism. In that context, I wish to pay special tribute to the Mechanism's Registrar, Mr. Olufemi Elias, for his leadership, abiding integrity and excellent stewardship of our institution during this challenging period.

The Mechanism reached several important milestones during the reporting period. After in-depth internal and external consultations, the Mechanism adopted the Rules of Detention to govern detention

matters both in Arusha and The Hague. Those Rules, together with the related regulations, came into effect last week. Alongside the recent amendments to the Rules of Procedure and Evidence, and the continual review and revision of other policies pertaining to a wide range of judicial and non-judicial activities, the adoption of the Rules of Detention reflects the Mechanism's unceasing attention to finding ways to improve its methods of work and serve as a model for courts in other jurisdictions. The Mechanism's activities in that respect benefited greatly from the engagement and recommendations of the Office of Internal Oversight Services during the course of the evaluation of the Mechanism, which was completed last spring, as well as in the context of regular audits.

In another significant milestone, the Mechanism held its first judicial hearing at the new, custom-built courtroom in Arusha in September. That hearing, which saw an initial appearance by the five individuals accused in the new contempt case *Prosecutor v. Maximilien Turinabo et al.*, went very smoothly — testament to both the exceptional efforts of Mr. Elias and his team and the invaluable cooperation of the Government of Rwanda in carrying out the arrest and transfer of those accused. That development is also an important demonstration of the Mechanism's readiness for when the remaining fugitives indicted by the International Criminal Tribunal for Rwanda are apprehended.

I had hoped to stand before the Council here today and announce another significant milestone, this time in the case *Prosecutor v. Radovan Karadžić*, as the projection had been to deliver the judgment in that case this very month — significantly earlier than previously forecast. As the Council may be aware, however, changes were made to the composition of the Appeals Chamber benches in both the *Karadžić* case and the case of *Prosecutor v. Ratko Mladić*, following motions for the disqualification of certain Judges, including myself.

I regret that I am no longer in a position to see the *Karadžić* case through to its conclusion, as had been my aim. Nonetheless, as set forth in my decision to withdraw from the bench in that case, and while I would have continued to adjudicate with an impartial mind had I remained on the case, I considered it to be in the interest of justice that I withdraw in order to not allow the then-pending disqualification proceedings to impede the progress of the appeals in the case. I am pleased to inform the Council that, notwithstanding the changes in the bench composition, it is expected

that the appeal judgment in the *Karadžić* case will be delivered in the first quarter of 2019, just a short time later than previously projected.

In the *Mladić* case, meanwhile, the briefing recently concluded. The changes in the bench composition in that case are not expected to delay the rendering of the judgment, which, prior to the briefing process, had been projected for completion by the end of 2020. Proceedings in the review case *Prosecutor v. Augustin Ngirabatware* took an unanticipated turn during the reporting period, with the postponement of the hearing that had been scheduled for September. The hearing was postponed at Mr. Ngirabatware's request, in the light of the material disclosed following the arrest of the five accused in the *Turinabo et al.* case and was recently been rescheduled. A variety of pre-trial matters are also being litigated in the new *Turinabo et al.* case before a single Judge, who just last week issued a decision declining to refer the case for trial within a national jurisdiction.

In another contempt case — the case *Prosecutor v. Petar Jojić and Vjerica Radeta* — a single Judge granted such a referral within a national jurisdiction and an appeal on that ruling is currently pending before the Appeals Chamber. In the meantime, the retrial of the *Prosecutor v. Jovica Stanišić and Franko Simatović* case is proceeding apace, as is the work that the Mechanism Judges carry out on a variety of smaller, ad hoc requests pertaining to everything from the protection of vulnerable victims and witnesses to access to confidential materials. In that context, I would like to underscore my deep gratitude to my fellow Judges for their dedication to our work and institution. I likewise wish to express my thanks to the Council for its efforts to ensure that the current vacancies on the Mechanism's judicial roster will be filled expeditiously.

As I have spent the waning weeks of my presidency consulting with my successor and taking all possible steps to ensure a smooth transition to the presidency of my friend and colleague, Judge Carmel Agius, I have also had the occasion to pause and reflect on all that has been achieved during the nearly seven years that I have served as this institution's President. I would not be human if I did not have certain regrets in that regard. I regret, of course, that the *Karadžić* appeal judgment will not be delivered during my tenure as President, and that the disqualification decision in the *Mladić* case departed from established jurisprudence.

I also regret that a suitable and sustainable solution for the resettlement of the acquitted and released persons in Arusha has not been found, notwithstanding mine and my colleagues' best efforts and the engagement of the members of the Council on this issue. The Council's continued focus and the cooperation of key Member States are essential if this problem is to be resolved once and for all.

I likewise regret that, notwithstanding the best of intentions and goodwill, we have yet to fully achieve the harmonization of practices and procedures across the Mechanism's two branches. Our aim, from the beginning, was to have a single, unified institution on two continents. While that goal has been achieved in a great many respects, challenges still persist and may continue for some time.

It is, in many ways, inevitable that some judicial rulings are met with negative reactions, particularly where those rulings pertain to controversial issues. I have always been, and always will be, guided by the law and by evidence in reaching my judicial rulings — nothing more and nothing less. Nonetheless, I regret that some of my rulings on matters such as early release have caused pain or concern for victims and their communities. In that respect, I have reflected at length on the issues raised in the Security Council plenary meeting last June (see S/PV.8278) and I have taken concrete steps to address the concerns reflected in resolution 2422 (2018) — such as by inviting certain convicted persons to undertake to abide by certain conditions if granted early release — while ensuring fundamental fairness and continued adherence to the Mechanism's governing legal framework.

For me, it remains a profound regret that a different and better resolution of the situation of my former colleague Judge Aydin Sefa Akay was not found. At a time when the world is facing deeply troubling trends related to the undermining of independent judiciaries and the weakening of the rule of law, we at the United Nations simply cannot afford to be anything less than exemplary when it comes to our own handling of interference with judicial independence and actions undertaken in contravention of United Nations immunities. At the very least, it is imperative that, going forward, fair and transparent processes be developed to determine whether any proposed non-reappointment of a Judge accords with the fundamental principles of the rule of law.

Despite all those regrets, I am also exceptionally proud of what has been achieved at and by the Mechanism over the past almost seven years. It was during my tenure as President that the Mechanism came into being; the Rules of Procedure and Evidence were first adopted; the Judges sworn in; and the branches in Arusha and The Hague first opened. Systems and policies to support the Judges as they carried out their judicial work remotely were put in place and repeatedly revised and refined over the years, reflecting our continued focus on improvement, efficiency and economy. A broader legal and regulatory framework was established for the Mechanism, which was also — and continues to be — refined and augmented as needed. Moreover, my fellow Judges and I adopted a groundbreaking Code of Professional Conduct for Judges — something our predecessors had never done before — and we proceeded to revise the Code to provide a disciplinary process: a reflection of the importance of accountability in all aspects of our work.

During my tenure, in full cooperation with colleagues at the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY), responsibility for judicial activities — as well as non-judicial residual functions — was transferred from those Tribunals and carried out smoothly and to the highest standards at the Mechanism. The Mechanism took the steps needed to stand on its own, without the assistance of its predecessors, and to realize its own administrative capacity, spanning a wide range of functions and tasks. In the meantime, hundreds upon hundreds of judicial rulings were issued, addressing a wide range of requests, and every effort was taken to ensure that judicial work was conducted in a timely and cost-effective manner, in keeping with the Council's vision for the institution. Indeed, we have shown that the new model by which Judges work remotely can function efficiently and economically and in full compliance with due process requirements.

That is not all — thanks to the exceptional generosity of the Government of the United Republic of Tanzania and engagement with local companies — the Mechanism was able to construct a new, minimalist facility in Arusha, consistent with the institution's mandate to be small and efficient. We have started important traditions at those new premises, hosting a judicial colloquium for national, regional and international Judges and visits by a wide range of

officials seeking to learn from our practices, as well as inaugurating an annual event designed to bring international and regional organizations and the local community in Arusha together. We have also maintained and made accessible one of the leading law libraries in the region.

We have given back in important ways at The Hague branch as well, both at our historic premises there and through collaboration with victims' associations and the new ICTY Information Centre in Sarajevo. During a recent visit to the former Yugoslavia, I met with senior Government officials in Croatia, Bosnia and Herzegovina and Serbia, and I was pleased by the cooperation received on different fronts, including in particular the positive indications given in both Croatia and Serbia with regard to the establishment of information centres in those countries as well. Of course, at both branches we continue to make important strides in making the judicial records and key precedents of our predecessor Tribunals accessible.

All the while, my colleagues and I have made it a priority to build an exemplary United Nations institution and a model of what an international criminal judicial institution can and should be. Our remarkable body of staff, drawn from approximately 70 countries around the world, has repeatedly surpassed the Secretary-General's gender parity goals. Through their professionalism and ingenuity, their resourcefulness and resilience, the staff have been invaluable when it comes to making the Mechanism what it is today.

In that context, I wish to salute in particular Ms. Gabrielle McIntyre, Chef de Cabinet and Principal Legal Adviser at the Mechanism since its founding and the Chef de Cabinet to the Presidents of the ICTY for more than a decade. As a senior official of the ICTY since 2004, she played a pivotal role in the conceptualization and creation of the Mechanism, and she has proven to be an invaluable colleague and leader at the Mechanism throughout the institution's existence. I am deeply indebted to her and her Deputy Chef de Cabinet, Ms. Willow Crystal, as well as to all of the excellent staff of the Mechanism, who have made the institution what it is today.

As I bring my remarks to a close, I hope the Council will allow me one final moment of personal reflection. I may be among the last individuals to appear before the Council who survived the Holocaust. I do not speak lightly or often of this time in my life — a period during

which many of my loved ones perished — but I wish to remember it today because it was the horrors of the Holocaust, and of the Second World War more broadly, that led us to where we are now. It was the experience of the scourge of war and the untold sorrow it wrought that led the peoples of the world to unite in a ringing call to reaffirm faith in fundamental human rights, human dignity and the value of justice and the rule of law through the establishment of the United Nations. It was that experience that led to the Universal Declaration of Human Rights, which marked its seventieth anniversary only yesterday, and it was, in many ways, the echoes of all that that led to the establishment of the ICTY and the ICTR — the pioneers of international criminal justice in the modern era.

Today, in speaking of the work of the International Residual Mechanism for Criminal Tribunals, we often make reference to the importance of incorporating lessons learned. But the Mechanism itself, as it carries forward the invaluable legacies of the ad hoc Tribunals, is a symbol of the lessons learned by past generations. It is a symbol of what we hold dear: respect for the rule of law, fundamental fairness and justice and adherence to the highest principles and our obligations arising thereunder.

It is a reminder of the thread of human events that connects our work today with those dark days of unimaginable cruelty and chaos from the Second World War. It is a reminder that none of us may stand idly by while genocide and other violations of international law are committed, or while their commission is denied. It is a reminder today of the chorus of generations — from the Poland of my childhood to the former Yugoslavia and Rwanda, to so many other places around the world — that, when faced with appalling atrocities, proclaimed "never again". We must heed those lessons, lest we be doomed to repeat them. The leadership of all those present here today, and the Council as a whole, is essential in that regard, as my generation passes on the torch.

For the support that the members of the Security Council have offered me throughout my presidencies of the Mechanism and, before that, the ICTY, and for the support that the Council has provided and will continue to provide to the Mechanism itself, I am humbly and deeply grateful.

The President (*spoke in French*): I thank President Meron for his briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: I thank you, Mr. President, for this opportunity to address the Security Council about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals. My written report provides details about our activities and results during the reporting period in relation to our usual three priorities (S/2018/1033, annex II).

Today I would like to highlight only a few important issues. However, at the outset, I would like to take this opportunity to recognize President Meron and express my Office's appreciation for his service. President Meron has led the Mechanism since its establishment, in July 2012, and greatly shaped our institution during its first years of operations.

My Office continues to focus on expeditiously completing the limited number of trials and appeals transferred from the International Tribunal for the Former Yugoslavia (ICTY). In relation to the retrial of the case *Prosecutor v. Jovica Stanišić and Franko Simatović*, we completed the presentation of all our witnesses, except for one. Our final witness is now scheduled to be heard in January. Regarding the *Karadžić* appeal, my Office continued to litigate a high volume of matters, including eleventh hour motions to disqualify Judges from the case. We have taken note of the revised schedule for the completion of that case and look forward to the delivery of the judgment.

On 29 November, shortly after the end of the reporting period, my Office completed the preparation of our written appeals arguments in the *Mladić* case, in accordance with court-established deadlines. In addition to that work, my Office also litigated a number of other matters in that case, including motions to disqualify judges. We will continue to take measures within our control to expedite the completion of those final proceedings.

Another of the Mechanism's residual functions is the protection of victims and witnesses. In addition, pursuant to article 14 of the Mechanism statute, my Office is mandated to investigate and prosecute contempt of court. I can now report that, following an intensive and confidential investigation conducted over the past year, in June my Office confidentially filed an indictment charging five suspects with three counts of contempt of court and incitement to commit contempt of court. That indictment was confirmed in August,

and Mechanism warrants of arrest were successfully executed in September by Rwandan police, in close cooperation with my Office.

That contempt proceeding, *Prosecutor v. Maximilien Turinabo et al.*, arose out of the review proceedings in the *Prosecutor v. Augustin Ndirabatware* case. My Office alleges that four of the accused directly, and through intermediaries, interfered with witnesses who had given evidence in Ndirabatware's trial and interfered with witnesses in the ongoing review proceeding. We furthermore allege that two of the accused knowingly violated court orders protecting witnesses. The purpose of the alleged contempt of court was to overturn the final conviction of Augustin Ndirabatware, and by doing so undermine the facts of the genocide. My Office has not undertaken that activity lightly, particularly as it has generated a significant additional workload, which has stretched our already lean resources. Nonetheless, we are fully committed to defending the integrity of the proceedings conducted by the International Criminal Tribunal for Rwanda (ICTR), the ICTY and the Mechanism. My Office wants to send a clear message that our victims and witnesses will be protected and that we will oppose genocide denial in all of its manifestations.

As I previously reported to the Council, my Office has been taking a number of important measures to strengthen our efforts to locate and arrest the remaining eight fugitives indicted by the ICTR. We restructured our tracking team and adopted a more proactive approach to our work. Those reforms have been matched by a temporary increase in resources, on the clear understanding that we have a limited amount of time to demonstrate a successful track record.

Prior intelligence and our investigative activities generated some actionable leads during the reporting period. Accordingly, I travelled to Harare earlier this year to seek the cooperation of Zimbabwean authorities, who assured me of their commitment to adhere to their international legal obligations and the Council's call to Member States. We established a joint task force to coordinate further investigative activities to locate a fugitive in Zimbabwe. The task force has been very active and recently provided another report to my Office showing that it is pursuing a number of promising leads.

At the same time, based on information obtained by my Office and confirmed by the INTERPOL National

Central Bureau for South Africa, in August I submitted an urgent request for assistance from South African authorities. Unfortunately, despite repeated contacts and reminders, that request has not been answered and no explanation been provided so far. My Office trusts that South Africa, as an incoming member of the Council, will provide the necessary cooperation. Locating and arresting the fugitives is a priority for my Office. In order for us to complete that residual function as expeditiously as possible, State cooperation remains most essential.

In relation to the countries of the former Yugoslavia, my Office deeply regrets the continued glorification of war criminals and the denial of crimes, including the Srebrenica genocide. While my Office has repeatedly called for urgent attention to that issue, developments during the reporting period again demonstrated that the challenge is severe. Some political leaders in the region are working to overcome the legacy of the recent past. Unfortunately, positive steps are undermined by irresponsible comments from other officials denying what has been established beyond a reasonable doubt by international courts and portraying as heroes men who committed the most serious violations of international law.

Soldiers do not defend their country with honour by murdering civilians, burning homes, raping women and girls, and persecuting communities because of their ethnicity or religion. Countries cannot build a future together if they do not have a common understanding and acceptance of the recent past. In Rwanda and the former Yugoslavia, my Office is committed to promoting education and remembrance as key tools in the fight against ideologies of discrimination, division and hate.

As detailed in my written report, regional cooperation in war crimes matters between the countries of the former Yugoslavia is at its lowest level in years and continues to head in the wrong direction. That cooperation is essential to achieving justice for victims from all communities. Today, suspected war criminals too often find safe haven in neighbouring countries because authorities fail to work together. Successful regional efforts in the fight against organized crime, corruption and other serious offences demonstrate that such cooperation is possible. When it comes to regional cooperation in war crimes matters, the challenge is not inability but unwillingness. If for no other reason than to secure meaningful justice for their own people,

my Office calls upon authorities in the region to take concrete steps to remedy the situation, including by bringing political interference in the justice process to a halt and allowing the judiciaries to carry out their responsibilities in accordance with the rule of law and international and European standards.

The final topic I would like to address, briefly, is the search for missing persons in the former Yugoslavia. Significant results have been achieved, with almost 25,000 missing persons having been found and identified. Unfortunately, more than 10,000 families still do not know the fate of their loved ones. I had a number of meetings with representatives of the families of the missing during my recent missions to the countries of the former Yugoslavia. Even today, they suffer the immense pain of not knowing the fate of their loved ones. Their message to all of us is simple — we must intensify efforts, deepen cooperation and finally return the missing to their families. During the reporting period, my Office took important steps to strengthen our support for the search for missing persons. We signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) to promote our cooperation. That important agreement will enable the ICRC to access our evidence collection in order to obtain information that may assist in clarifying the fate and whereabouts of persons who are still missing.

We have also continued to provide national authorities with access to our records and expertise. In the past months, we have hosted working visits by the Commission on Missing Persons of the Government of the Republic of Serbia and have given extensive operational support to the Missing Persons Institute of Bosnia and Herzegovina. At the recent London summit organized by the United Kingdom, all Governments of the region pledged to increase their activities and cooperation and prevent the politicization of the issue. Achieving further progress is both a humanitarian imperative and fundamental to reconciliation in the former Yugoslavia. Victims from all sides of the conflict must be located, identified and returned to their families.

In conclusion, my Office is firmly focused on completing its remaining functions efficiently and effectively, including by investigating and prosecuting interference with witnesses and contempt of court. We also remain committed to providing our full support to the continued implementation by national authorities

of the ICTR and ICTY completion strategies so that more justice can be achieved for more victims. We are grateful for the continued support of the Council in all of our efforts.

The President (*spoke in French*): I thank Prosecutor Brammertz for his briefing.

I shall now give the floor to those Council members who wish to make statements.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): I would like to thank you, Mr. President, for convening this meeting. I also thank Judge Theodor Meron, President of the International Residual Mechanism of the Criminal Tribunals, and its Prosecutor, Mr. Serge Brammertz, for their important briefings. Taking into account the completion of Judge Meron's mandate next January, in my current capacity as Chair of the Working Group on International Tribunals, I would like to pay special tribute to Judge Meron for his great contribution to the establishment and efficient functioning of the Residual Mechanism and his well-known track record in the service of international criminal justice.

Recognizing the fundamental importance of access to justice and international criminal law in building sustainable peace, Peru underlines the importance of the Mechanism, which was established by resolution 1966 (2010) to carry out the remaining residual functions of its predecessors, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Although it is a small and temporary structure whose functions and size will diminish over time, the Mechanism continues to contribute to the administration of justice. It is time that we underscore its important role in deterring and preventing atrocity crimes.

We welcome the fact that the Mechanism's roster of 25 judges is expected to be filled through elections before the end of the year and stress the importance for Member States to nominate women candidates. We also commend the transparent, swift, efficient and effective manner in which the Mechanism is fulfilling its judicial functions — which have been especially intense in over the past six months — including by having certain judges carry out their work remotely. We also emphasize the need for the Mechanism to maintain an even balance between civil and common law approaches.

We highlight the assistance that several African and European Governments have provided to the Mechanism so that convicted persons can serve sentences in their own countries, and we underline the need to bring to justice those fugitives who are still at large. We must remember that the success of the Mechanism depends on the cooperation of States in enforcing its sentences, complying with its orders and responding to its requests for assistance. We also reiterate the need to respond to concerns about the early release of persons convicted by the International Criminal Tribunal for Rwanda, some of whom have expressed no remorse for their crimes.

I would like to conclude by urging for the provision of significant assistance to the Mechanism's Department of Management of the Secretariat and Office of Legal Affairs, and by stressing, in line with resolution 2422 (2018) adopted in June, the need for the Council to remain united in its support for the Mechanism. I encourage the Council to continue to strengthen its important action in that regard.

Mrs. Dickson (United Kingdom): I would like to thank Judge Theodor Meron, President of the International Residual Mechanism of the Criminal Tribunals, and its Prosecutor, Mr. Serge Brammertz, for today's reports and briefings.

I would like to start by commending the Mechanism on its work and progress over the past year. It was only 12 months ago that the Mechanism fully assumed its responsibilities for both the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). During that time, its mandate has remained the same — to carry out the residual functions of the ICTY and the ICTR, thereby ensuring their legacy. Yet within that period, the Mechanism has been faced with significant challenges following the General Assembly's approval of a significantly reduced for the 2018-2019 biennium. That has led to reduced staff and resources. However, the Mechanism has been determined to continue to fulfil its mandate effectively and efficiently, and we are pleased that it has taken the steps necessary to make that possible.

All three principals have demonstrated their drive and determination to ensure that the Mechanism remains on track to deliver its mandate. Through various initiatives, the Mechanism has adapted to deal with several setbacks and has subsequently achieved a great deal with a relatively small number of staff.

Among the initiatives implemented by the Mechanism, we take note of its expenditure reduction plan. As developed by the Registry, the plan has enabled the Mechanism to continue to fulfil the core elements of its mandate — particularly judicial functions — as fully as possible. It has done this by reducing non-post resources and general operating costs, revising delivery arrangements for important services and limiting premises enhancements to essential needs. These measures have undoubtedly enabled the Mechanism to manage budgetary constraints. However, looking ahead, we need to be mindful of how to balance cost-savings against effectiveness, in particular if the Mechanism is to continue to fulfil its mandate.

The United Kingdom will continue to support the Mechanism for the remainder of its mandate. We also request that Council members and Member States continue to provide the Mechanism with the support it needs, whether financially, logistically or politically.

We also commend the Mechanism for its efficiency in dealing with cases often involving complex and challenging issues and its practice of remote judging, which so far has worked without any prejudice to the defendants. We note that cases have proceeded expeditiously, and these include the recent *Turinabo et al. contempt* case. This was the first hearing for the Mechanism's branch in Arusha, and it shows that, when seized of important matters, such as contempt or false allegations, the Mechanism will act swiftly. We look forward to developments in this case, as well as the related *Ngirabatware* sentence review. We also welcome progress in the *Štanišić and Simatović* retrial and note the recent judicial appointments in the *Karadžić* and *Mladić* appeals. We have heard from the President and Prosecutor this morning with regard to the completion of these important cases and are pleased that there will not be any significant delay to them caused by recent motions.

While cases have been progressing, we however remain deeply concerned about genocide denial in Rwanda and the denial of crimes and the glorification of war criminals in the Balkans. In addition, the lack of regional judicial cooperation among the countries of the former Yugoslavia is concerning. The Mechanism can successfully complete its mandate and deliver justice to victims only through collective efforts of the international community.

We remind the countries of the region of the joint declaration on war crimes signed at the prime ministerial level at the London Western Balkans Summit this year, which underlined the importance of recognizing and respecting verdicts from international and domestic courts related to war crimes and other atrocity crimes, as well as rejecting the use of hate speech, the glorification of war criminals and the provocative use of symbols. We therefore urge countries to work closely with the Mechanism, in particular with the Office of the Prosecutor, to ensure accountability through effective cooperation. We believe that this will help to reduce the instance of the denial of crimes, including genocide and the glorification of war criminals.

While attention tends to focus on conviction and acquittals, we would like to recognize the development of best practices by the President and the Registry, including the revised Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism and the directions on the procedure for the determination of applications for pardon, commutation of sentence and early release of persons convicted by the ICTY, the ICTR and the Mechanism. We are aware that the Registry is also reviewing various draft policy instruments related to professional conduct for defence counsel and on the support and protection of victims and witnesses. These policies are essential to the Mechanism's transparency and clarity and to the legacy it provides to current and future tribunals.

We note the elections later this month to fill two judicial posts. Ensuring that the Mechanism operates with a full roster is necessary for it to complete its mandate and we fully support the Mechanism in filling these two vacancies. We do, however, regret the lack of women candidates.

Lastly, but certainly not least, through you, Mr. President, and on behalf of the United Kingdom, I would like to take this opportunity to thank Judge Meron for his invaluable work over the past two decades. The whole international community should recognize the meaningful and long-lasting contribution he has made to international law and justice, particularly through his judicial rules. We are immensely grateful to him for his efforts, his persistence and the leadership he has shown, and in particular the very positive impact that this has had on the functioning of the Residual Mechanism. We wish Judge Meron the very best for the rest of his time at the Residual Mechanism and with his future pursuits,

which I have no doubt will be numerous. We would also like to congratulate Judge Agius on his appointment as President and look forward to working with him on carrying out the Mechanism's mandate.

Ms. Schoulgin Nyoni (Sweden): I thank Judge Meron and Prosecutor Brammertz for their comprehensive updates this morning.

Sweden welcomes the developments and progress made by the International Residual Mechanism for Criminal Tribunals since the last briefing (see S/PV.8278) and the extension of the mandate in June. We are pleased to see that the Mechanism has been working on implementing the recommendations that were presented in the evaluation report of the Office of Internal Oversight Services earlier this year. We particularly welcome the implementation of the recommendation regarding gender-related matters.

It is important that the Registry is now reviewing how the policies related to the support and protection of victims and witnesses can better reflect gender-sensitive and gender-appropriate approaches. We also reiterate our satisfaction with the achieved gender parity among the professional staff. It is evident that the Mechanism has done its share in ensuring gender parity. However, we, the Member States, have failed in doing our part. The continued lack of gender parity among the judges of the Mechanism is disappointing, and we regret the absence of female candidates in the upcoming election of judges. Let us do better ahead of possible future elections.

The strained budgetary situation also remains a concern, not least because it risks contributing to the loss of institutional memory, as highlighted in the report (see S/2018/1033). We note that the biennial budget approved by the General Assembly in July did not even amount to half of the budget proposed by the Mechanism. To avoid any delays in the implementation of the mandate and ensure sufficient quality of the work conducted, the Mechanism must be given the required resources. We note that, according to the report, it remains unclear how long the function for the protection of victims and witnesses would need to remain operational, and we again stress how important this work is.

To achieve results, cooperation with the Mechanism remains of the utmost importance. Sweden is one of the countries that has received convicted individuals for the enforcement of their sentences. We

reiterate our call on Member States to also assist the Mechanism in the arrest of the fugitives who remain at large. We welcome the continued efforts made to promote communication and cooperation between the Mechanism and the Governments of Rwanda and the States of the former Yugoslavia. The continued challenges in the reconciliation process in the Western Balkans, as noted in the Prosecutor's report, are concerning. The Mechanism must continue to address this situation in the communication with the States of the former Yugoslavia.

During our two years on the Council, Sweden has followed the work of the Mechanism very closely. As this is our last meeting on this topic before leaving the Council, let me just briefly share some reflections.

Over these past two years, we have not only worked on the extension of the mandate of the Mechanism, but have also witnessed the closure of the International Tribunal for the Former Yugoslavia (ICTY), which was indeed a historic event. The ICTY, as well as the International Criminal Tribunal for Rwanda, represented concrete advancements of the international criminal justice system. We cannot overestimate the role that these and other international criminal tribunals have played in the fight against impunity for the most horrendous crimes, such as genocide, crimes against humanity and war crimes.

At the same time, during our time on the Council we have also witnessed an international criminal justice system under increased pressure. Considering the hostile rhetoric against international courts and tribunals, one could wonder if accomplishments such as the establishment of the Tribunals for the Former Yugoslavia and Rwanda in the 1990s, the creation of the International Criminal Court in the beginning of the 2000s, and the establishment of the Residual Mechanism eight years ago would have been achievable today. As regrettable as this situation is, what it also tells us is that the courts and tribunals are having a real impact. The courts and the tribunals were not established to serve or depend on any one country's interests. They were set up to serve justice for victims and ensure accountability for the perpetrators of the worst crimes known to humankind. For this reason, it is only natural that they are uncomfortable for those who violate international law.

In this light, we want to once again commend the staff of the Mechanism for their high ethics and morale,

their independence and their unwavering commitment to justice. Since this is Judge Meron's last briefing to the Council, we would especially like to thank him for all his contributions to the international justice system throughout his career, including as President of both the ICTY and the Mechanism.

His presence here and his personal words serve as an important reminder of our joint commitment and responsibility to ensure the "never again".

Finally, Sweden's commitment to an international rules-based order and justice system remains unwavering. The principles of seeking justice for victims and ensuring accountability for perpetrators will be cornerstones of our international engagement also in the future. As part of that engagement, the International Residual Mechanism for Criminal Tribunals can count on our continued support.

Ms. Wronecka (Poland): I would like to thank President Theodor Meron and Prosecutor Serge Brammertz for their informative and insightful reports and briefings. Allow me to express our gratitude for their commitment to ensuring accountability, which is manifested in the high quality of the work of the International Residual Mechanism for Criminal Tribunals. Given the fact that today's is the last briefing of Judge Meron to the Security Council in his capacity as President of the Mechanism, I would like to take this opportunity to pay tribute to him for his tireless efforts and great achievements in the challenging quest for international justice. I thank him in particular for his important contribution to strengthening international law, including international humanitarian law and human rights law, and to the prevention of atrocity crimes. I believe that it is particularly fitting to do so 70 years after the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide and of the Universal Declaration of Human Rights.

Poland is encouraged by the priorities of the work cited by the President and the Prosecutor. We note with satisfaction the significant progress the Mechanism has achieved in the realization of its functions. In particular, we appreciate the focus on the expeditious completion of judicial proceedings and welcome the innovative and efficient solutions adopted to that end. We commend the efforts to provide protection and support services to the victims and witnesses of the atrocities, and we applaud also the follow up on the recommendations of the Office of Internal Oversight Services audits.

We therefore agree with the positive assessment of the Mechanism's functioning in the period in question. We also look forward to its further achievements. We would like to recognize particularly the determination and efforts of the President, the Prosecutor and the staff to carry out their work effectively and efficiently, while observing in full all applicable rules and procedures. Their commitment to that end is all the more commendable in that they are faced with a considerable workload and a heightened judicial activity, amid budgetary cuts and downsizing.

Poland takes note of the challenges the Mechanism faces, including those that are resource-related. We would also like to highlight the importance of sustained cooperation with and assistance to the Mechanism from the Secretariat and Member States. They influence in an important way the prospects for the timely and efficient fulfilment of its mandate. In that context, we call on all States to fully cooperate with the Mechanism, in accordance with the relevant Security Council resolutions, and to render necessary assistance to it, especially with regard to the location, arrest and surrender of all remaining fugitives indicted by the Mechanism as soon as possible.

In conclusion, let me underline that international criminal justice institutions, including the International Residual Mechanism, play a crucial role in upholding accountability and fighting impunity, which can contribute to the deterrence and prevention of atrocity crimes. Such efforts remain in compliance with Poland's engagement in the strengthening of international law. Allow me to reaffirm Poland's continued support for the Mechanism and readiness to cooperate with it, which corresponds to our commitment to international criminal justice. We call on others to take the same stance.

Mrs. Gasri (France) (*spoke in French*): I thank President Meron and Prosecutor Brammertz for their reports and briefings. I pay a warm tribute to Judge Meron, who leaves us an International Residual Mechanism for Criminal Tribunals that is fully autonomous, capable of effectively carrying out its mandate and of adapting its procedures and working methods, giving due consideration to the diversity of legal systems and multilateralism, as called for by the Council in resolution 1966 (2010). Judge Meron's contribution to international criminal justice and to the work of the Security Council is indisputable and ongoing. France thanks him for his commitment as Judge and

President of the International Tribunal for the Former Yugoslavia (ICTY) and of the Mechanism, and wishes every success to the future President of the Mechanism.

With regard to the judicial activities of the Mechanism during the reporting period, we note that five accused were arrested in the new *Turinabo et al.* contempt case and that those accused were brought before the court immediately two days after their transfer from Kigali to Arusha. We welcome the cooperation of the Rwandan authorities in that matter and will continue to follow the latest developments.

We take note of the change in schedule for the *Koradžić* case, and we are counting on the professionalism of all to complete all trials in progress within the planned deadlines. France also recalls that States are required to cooperate with the Mechanism in the search and arrest of eight fugitives indicted by the International Criminal Tribunal for Rwanda. The arrest warrants will not go away and their crimes will not go unpunished.

France welcomes the assistance provided by the Mechanism to national courts responsible for prosecuting perpetrators of international crimes committed in the territory of the former Yugoslavia and in the territory of Rwanda. The two cases referred by the International Criminal Tribunal for Rwanda to the French courts involved during the reporting period. On 21 June, the Paris Court of Appeals confirmed the dismissal order issued in 2015 in the *Munyeshyaka* case. The case is now before the Court of Cassation.

In the *Bucyibaruta* case, the prosecution requested a partial discharge and a transfer to the Court of Cassation. The investigating judge has communicated the procedure to the Public Prosecutor, who must file his final submission in this procedure. France will continue to deal with these cases with all due diligence and rigour.

We take note of the Prosecutor's comments regarding the cooperation provided to his Office by the countries of the former Yugoslavia and his assessment of regional judicial cooperation as being "at its lowest level in years" (S/2018/1033, annex II, para. 55). For France and the European Union, which closely follow the Prosecutor's reports, the full cooperation of the countries of the former Yugoslavia with the Mechanism and the fight against impunity for crimes committed in the former Yugoslavia are inseparable and essential.

I would also like to echo the concern once again expressed by Prosecutor Brammertz in his report (S/2018/1033, annex II) and his briefing regarding the denial of crimes and responsibility by some individuals or political leaders. Judicial rulings relating to war crimes, crimes of genocide, crimes against humanity committed in the former Yugoslavia and Rwanda are based on facts and responsibilities that have been rigorously established. Those rulings are binding on all.

We note the resolve of the President and the Prosecutor to take into account resolution 2422 (2018) on the issue of early release. We encourage the Mechanism to continue discussions and considerations in order to endow itself with an early release mechanism with clear conditions, which will enhance international criminal jurisprudence.

Finally, I welcome the implementation of the recommendations of the Office of Internal Oversight Services to continue to uphold the principles of restraint, effectiveness and exemplariness, which must also apply to the entire United Nations.

Mr. Van Oosterom (Netherlands): On behalf of the Kingdom of the Netherlands, let me express our sincere thanks to the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron and Mr. Serge Brammertz, respectively, for their progress reports and briefings here this morning. Let me also thank Ambassador Gustavo Meza-Cuadra, Permanent Representative of Peru, for his impeccable leadership of the Council's Informal Working Group on International Tribunals.

The work of the Mechanism is important to ensuring accountability for the most serious crimes under international law. Its work contributes to reconciliation, economic development and peace because there cannot be peace without justice. In that context, I will focus on three challenges the Mechanism is currently facing: first, witness protection; secondly, complementarity; and thirdly, denial of war crimes.

On my first point, witness protection, contrary to expectations, the progress report shows that the workload of the Mechanism is increasing and will continue to increase due to the prosecution of five suspects accused of intimidating protected witnesses. We strongly condemn any action that puts the safety and security of witnesses and victims at risk. Such actions endanger the legacy of the Tribunals and affect

the confidence of witnesses and victims in international criminal justice. The protection of the more than 3,000 witnesses is a key residual responsibility of the Mechanism. Prosecution by the Mechanism should send a strong and clear message that those who attempt to intimidate or to tamper with witnesses will be held accountable. We urge Member States, in the upcoming budgetary cycle, to provide the Mechanism with required resources that reflect the increasing workload of the Mechanism. Only then will the Mechanism be able to fully implement its mandate.

That brings me to my second point, complementarity, or cooperation between national judicial institutions. States bear the primary responsibility to end impunity and to thoroughly investigate and prosecute those responsible for the most serious crimes under international law. We note with appreciation that both the Registry and the Office of the Prosecutor continue to assist and support national criminal justice institutions in the Great Lakes region, East Africa and the Western Balkans. The assistance provided by the Prosecutor enables those national criminal justice institutions to carry out their responsibilities. We are, however, concerned about the current situation in the Western Balkans, where regional cooperation is decreasing. Croatia, Serbia and Bosnia and Herzegovina should significantly strengthen their cooperation so that the suspected war criminals who are still at large can be brought to justice. That is in the interest of the respective countries, as it contributes to reconciliation, regional stability, economic development and sustainable peace.

That brings me to my third point, the denial of war crimes and the glorification of convicted war criminals. Last Sunday, 9 December, marked the seventieth anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide. While observing that anniversary, we are deeply disturbed that the war crimes and the genocide committed in Rwanda and the former Yugoslavia are being denied and even glorified. The conclusion that genocide was committed against the Tutsi has been crucial to re-establishing peace and security in Rwanda and to promoting reconciliation between the affected communities. In that spirit, the General Assembly designated 7 April as the International Day of Reflection on the 1994 Genocide against the Tutsi in Rwanda.

The glorification of war criminals with the consent of or even organized by national authorities in the Western Balkans is disturbing and concerning. The

denial of the Srebrenica genocide by parliamentarians of the Republika Srpska in Bosnia and Herzegovina and leading politicians in Serbia is reprehensible. It shows a lack of respect for the victims, their relatives and the judgments of the International Tribunal for the Former Yugoslavia. We firmly reject the ideology of discrimination, division and hate, especially in societies that have already borne the devastating consequences of hateful words being put into action.

Let me ask a rhetorical question. How can one glorify ethnic cleansing, forcible displacements, the destruction of villages and communities, the rape of women and girls, and the killing of innocent civilians? We therefore urge members of the respective Governments first, to set the right example; secondly, to stop public denials and glorifications of the atrocities committed; and thirdly, to send a clear message to their armed forces that only by fully respecting international humanitarian law can they can truly defend their country with pride and honour.

In conclusion, in January President Theodor Meron will step down as the first President of the International Residual Mechanism for Criminal Tribunals. He leaves behind an exemplary institution that operates as efficiently and effectively as possible. There is gender parity among the professional staff members; there is a special focal point for gender-related issues; and amendments to put conditions on early release are currently under consideration. We support the intention of the Mechanism to attach suitable conditions when making decisions on early release. That is of key importance to the families of the victims and to the countries involved. The Mechanism has already achieved much of what the Council envisaged and is ready to face future challenges.

Finally, allow me to say a few personal words to President Theodor Meron. In the open debate on upholding international law earlier this year (see S/PV.8262), he shared with us that he was 9 years old when his childhood in Poland was violently disrupted by the Second World War. He survived a forced labour camp and lost almost all of his family members during that war. Again this morning, he shared his life's history with us as his motivation for his professional legal work. He touched our hearts. We are deeply impressed by how his experience motivated him to put his life in service of ending the atrocities of war by virtue of the law. Justice must be done for the victims by holding accountable those who bear the greatest responsibility

for the most serious crimes under international law. At the same time, he ensures that convicted war criminals are treated fairly.

His contribution to international criminal law has been truly extraordinary and indispensable to its development. On behalf of my Government, I sincerely thank him for his service and wish him all the best in his future endeavours. On a personal note, I hope that he will write an autobiography.

Mr. Albanai (Kuwait) (*spoke in Arabic*): At the outset, I would like to express my heartfelt thanks to Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, the Prosecutor of the Mechanism, for their valuable briefings on the progress achieved so far. Since this may be the last briefing by Mr. Meron as President of the Mechanism, I would like to express my profound gratitude for his tireless efforts throughout his mandate. I wish his successor, Judge Carmel Agius, every success.

Only 12 months ago, we witnessed the end of the mandate of the International Tribunal for the Former Yugoslavia, with the work of the two International Tribunals coming to a close. Thus, the judicial jurisdiction on the residual cases was fully transferred to the International Residual Mechanism to continue the same approach adopted by the Security Council with a view to upholding the rule of law, achieving justice and fighting impunity in order to attain international peace and security.

Peace does not simply mean ending armed conflicts; rather, it is the delivery of justice for the victims of war crimes, genocide and ethnic cleansing through the prosecution of the persons proved to have perpetrated such crimes according to due process, as per the relevant international laws. In the same vein, we must study and document in depth the experience of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia to cultivate the lessons learned and to assess the strengths and weaknesses thereof. That would serve as a robust basis for the future, whenever necessary. Today I would like, therefore, to highlight the following points.

First, we welcome the efforts of the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals aimed at improving the performance of the Mechanism through the adoption of a Code of Professional Conduct for Defence Counsel

Appearing before the Mechanism and the development of an effective *modus operandi* that would help to facilitate legal research and analysis and the drafting of the decisions and sentences handed down, without prejudice to the mandate provided for in resolution 1966 (2010), and this notwithstanding the following challenges: the surge in judicial activities concerning applications for the review of sentences and access to confidential information; litigation related to contempt of the Tribunals due to the discontinuation of the support provided to the two Tribunals in response to their closure; and the non-approval by the General Assembly of the Mechanism's proposed budget for the period 2018-2019. The Mechanism therefore devised a reduced budget by laying off staff, which might not only adversely affect the delivery of its mandate, but also lead to low staff morale.

Secondly, we commend the expeditious measures taken by the Mechanism's judges, Prosecutor and Registry regarding the cases reviewed thereby, as they will lead to the speedy indictment of the accused. That is evidenced by the final sentences passed in certain cases ahead of the deadline, in spite of the delay in the Prosecutor v. Radovan Karadžić case.

Thirdly, we acknowledge the Mechanism's efforts as a small, temporary and efficient structure whose tasks and size will diminish over time, as per its establishing resolution and as stressed by the evaluation and progress report of the Office of Internal Oversight Services (S/2018/206).

Fourthly, the responsibility to identify the location of and arrest the eight fugitives does not rest exclusively with the Mechanism; rather, it should cooperate with the relevant States and international organizations to help bolster its efforts, which were carried out on the basis of significant information regarding the location of the fugitives.

Fifthly, we value the measures taken by the Mechanism in response to the concerns of Member States with respect to resolution 2422 (2018) regarding early release. Meanwhile, the Mechanism should take into consideration the views of Member States regarding its efforts to attain the desired goal.

In conclusion, I would like to express my deep gratitude to Peru, Chair of the Informal Working Group on International Tribunals, as well as to the Office of Legal Affairs and the Office of Internal Oversight

Services for their efforts towards the implementation of resolution 1966 (2010).

Mr. Liu Yang (China) (*spoke in Chinese*): China thanks President Meron and Prosecutor Brammertz for the reports on the recent work of the International Residual Mechanism for Criminal Tribunals. During the reporting period, the judicial activities of the International Residual Mechanism for Criminal Tribunals continued to make headway, as Residual Mechanism judges issued a total of 244 orders and decisions. Trial proceedings continue to advance in the cases *Prosecutor v. Jovica Stanišić and Franko Simatović*, *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Ratko Mladić*. In the case *Prosecutor v. Maximilien Turinabo et al.*, prosecution has started regarding the alleged contempt of court by Turinabo and others. The Office of the Prosecutor is making further efforts to hunt down the fugitives indicted by the International Criminal Tribunal for Rwanda. China hopes that the Residual Mechanism will take further effective measures to expedite its legal proceedings and effectively comply with the Council's requirements that the Mechanism be small, temporary and efficient.

Last March the United Nations Office of Internal Oversight Services reviewed the methods and the work of the Mechanism. China has taken note of the efforts made by the Mechanism in implementing the recommendations of the Office. We hope that the Mechanism will continue to take those recommendations into consideration as it steadily improves its work.

As the current President of the Residual Mechanism, Judge Meron, will conclude his term on 18 January 2019, China wishes to express its deep appreciation for the work that he has accomplished during his tenure. China will also actively support the work of the incoming President, Judge Agius.

In conclusion, I wish to take this opportunity to thank Peru, Chair of the Informal Working Group on International Tribunals, and the United Nations Office of Legal Affairs for coordinating the work between the Council and the Residual Mechanism.

Mr. Cohen (United States of America): I would like to thank the President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, and Prosecutor Brammertz for their informative briefings, as well as for being with us today.

The United States would like to begin by recognizing President Meron and thanking him for his service. He has led the International Residual Mechanism for Criminal Tribunals since 2012, overseeing the assumption of responsibilities from the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY). President Meron's efforts, through his leadership of the Mechanism, have helped to ensure that victims of horrific atrocities addressed by the ICTR and the ICTY receive meaningful measures of justice. We congratulate Judge Agius on his appointment as President, commencing in January.

The International Residual Mechanism for Criminal Tribunals is a model of our staffing expectations regarding gender parity. Fifty-six per cent of professional staff are female, surpassing the Secretary-General's goals. We are also happy to see the Mechanism's commitment to strategic planning in the process of downsizing staff and reducing operational costs. The volume of work that the Mechanism conducts is impressive, given its lean operations. For example, there were 244 judicial decisions and orders issued in this past reporting period alone, in addition to an ongoing trial in the *Prosecutor v. Jovica Stanišić and Franko Simatović* case, as well as the ongoing appeal proceedings in the *Prosecutor v. Radovan Karadžić*, *Prosecutor v. Ratko Mladić* and *Prosecutor v. Augustin Ndirabatswe* cases.

The arrest and transfer to the International Residual Mechanism for Criminal Tribunals of five accused Rwandan nationals during the reporting period is an important example of the need for the Mechanism's continued vigilance against any efforts by any party to interfere with the integrity of its proceedings. We commend the strong cooperation between Rwandan authorities and the Mechanism in executing the arrest and transfer of those individuals. It also highlights the importance of the continued efforts made by the Mechanism to protect the thousands of witnesses who bravely provide testimony so that justice could be served. The international community owes them a debt of continued care and protection.

We would also like to recognize the work of Prosecutor Brammertz. In particular, we commend his progress on remaining cases, cooperation with States, strong efforts to build capacity and national judiciaries in Africa and the former Yugoslavia, prosecuting war crimes and the innovative use of tribunal evidence

holdings to support the search for missing persons. We encourage the Mechanism to consider proposals to respond to the concerns raised by some States about early-release regimes. We note that some individuals who have been released early have subsequently denied responsibility for their crimes, and we share the concern that such denial undermines the fight against impunity. We recognize and encourage the practice of consulting with the States concerned about the early-release regime.

In the former Yugoslavia, we welcome the Prosecutor's recent announcement of a partnership with the International Committee of the Red Cross to support the search for missing persons. It is important for all of us to remember that approximately 10,000 people remain missing from the conflicts in the Balkans, as Prosecutor Brammertz has noted. We call on countries in the region to cooperate with one another, the Mechanism and other groups in those efforts and commend Croatia and Serbia for their public commitment to working together to that end. The politicization of the issue callously disregards the suffering of the victims and their families. We are hopeful that the evidence collection of the ICTY may assist in clarifying the fate and the whereabouts of missing persons.

We again highlight that, although the ICTY closed last December, the pursuit of justice for atrocities related to the conflicts in the former Yugoslavia is not over. Many hundreds of cases remain unresolved in national jurisdictions. We welcome the work of the Prosecutor's Office of Bosnia and Herzegovina to file important indictments in complex cases. Discussions between the Mechanism and the Serbian Chief War Crimes Prosecutor are encouraging, and we remain engaged to see whether or not they lead to the effective implementation of Serbia's national war crimes strategy.

We look to Croatia to demonstrate a similar commitment to national cases in the next reporting period and to all Governments in the region to cooperate with one another and the Mechanism to resolve the remaining cases. The United States shares Prosecutor Brammertz's concerns about the ongoing denial of serious crimes and the glorification of war criminals in the region. The Republika Srpska National Assembly's decision to annul the 2004 report on the Srebrenica genocide was a step backwards. We call on leaders and countries to reject efforts to deny the facts of past conflicts or engage in revisionist history. Ensuring that

newer generations share an accurate understanding of the past is elemental to preventing the recurrence of atrocities. The United States urges all States, especially States in the Great Lakes and southern African regions, to cooperate with the Mechanism and undertake efforts to arrest and surrender the eight remaining fugitives indicted by the ICTR as soon as possible. The United States continues to offer up to \$5 million for information leading to their arrest.

The work of the Mechanism, like that of the Rwanda and former Yugoslavia Tribunals previously, reminds us that, in the face of terrible atrocities, we can work together to hold accountable those responsible and achieve a measure of justice for the victims. We look forward to continuing to support the Mechanism and the fight against impunity.

Mr. Ndong Mba (Equatorial Guinea) (*spoke in Spanish*): First of all, allow me to express our gratitude to President Theodor Meron and Prosecutor Serge Brammertz for their informative briefings and for the comprehensive and exhaustive report on the work of the International Residual Mechanism of the Criminal Tribunals. We also thank the Permanent Representative of Peru, Mr. Gustavo Meza-Cuadra, for continuing to chair the Informal Working Group on International Tribunals in a transparent, efficient and dynamic manner, as well as the Office of Legal Affairs.

Before delving into the issue at hand, and given that it will be the last time we receive a report from Mr. Theodor Meron in his capacity as President of the Mechanism, we would like to commend and acknowledge him for the leadership, effectiveness and professionalism with which he has helmed the International Residual Mechanism for Criminal Tribunals from 2012 to date, and for his ongoing commitment to fighting for accountability by ensuring that justice is served for the victims of the worst crimes against humanity.

We once again have a valuable opportunity to assess the work of one of the international criminal justice institutions created by the Security Council to uphold accountability and combat impunity, which are essential elements for effective conflict prevention. In that regard, we would like to make three observations relating to judicial activities, the regulatory framework and cooperation with States.

First, as was to be expected following the closure of the International Criminal Tribunal for the Former

Yugoslavia in 2017 and that of Rwanda in 2015, the International Residual Mechanism has become a fully autonomous body. In the light of the challenges facing it, such as the increase in the volume of its judicial work, access to confidential information, requests for sentence reviews, allegations of contempt of court and the considerable reduction of its budget by the General Assembly in December 2017, the Mechanism has proved to be an entity capable of effectively discharging the mandate conferred upon it by the Security Council in resolution 1966 (2010). We note that during the reporting period, the Mechanism handled a challenging workload that led to the issuance of 244 decisions and orders, continuity in the ongoing case *Prosecutor v. Jovica Stanišić and Franko Simatović*, appeals proceedings in the case *Prosecutor v. Karadžić* and the case *Prosecutor v. Ratko Mladić*, referral and pre-trial proceedings in the case *Prosecutor v. Maximilien Turinabo et al.* and a series of other judicial matters, including orders pertaining to sentence reviews, access to confidential information and allegations of contempt of court, as indicated in the report. We welcome and commend all such endeavours and encourage the Mechanism to resolutely continue its noble work.

Secondly, Equatorial Guinea welcomes the Mechanism's continued efforts to improve the harmonized rules, procedures and policies that guide its work. In that regard, we have taken note of the President's review of several draft policies, including the review of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda and the Mechanism, in response to the concerns raised by some States, including our own, regarding the early-release regime. We hope that tangible measures, such as consultations with judges and conditions for early release, will be the genuine result of admitting to and showing remorse for committing heinous crimes. In that regard, while we deem it relevant to take account of the views of the Governments concerned and those of associations of victims and survivors, we also welcome the adoption and recent entry into force of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism, which is clear evidence of the fact that the Mechanism is continuing to work

to improve its effectiveness and streamline its internal working methods.

We recognize that there is gender parity among the technical staff, although there are still no women in the Mechanism's leadership positions. For that reason, we want to encourage States first to strengthen their cooperation with the Mechanism and the States concerned on the arrest and surrender of fugitives at large; secondly, to accept the relocation of people who have been acquitted and released to their countries; and thirdly, to cooperate in enforcing sentences. In that regard, we commend Mali, Benin, Senegal, Austria, Denmark, Estonia, Finland, France, Germany, Italy, Norway, Poland and Sweden for accepting prisoners in their countries. With regard to this last issue, we believe that in addition to such cooperation, in order to truly strengthen accountability and an international order based on the rule of law, and so that the Mechanism can fulfil its mandate, we must continue to build the capacity of the national institutions of the countries concerned. That has been done in the Great Lakes region, East Africa and the former Yugoslavia, ensuring not only support for the principles of complementarity and national ownership of post-conflict accountability, but also the referral of cases to more appropriate judicial bodies that can potentially lessen the Mechanism's workload.

My Government commends the Mechanism's efforts to implement the recommendations of the Office of Internal Oversight Services and the progress it has made in managing its own archives and those of the two Tribunals, including preserving and ensuring access to them. We nevertheless believe that the Mechanism, specifically the Office of the Prosecutor, continues to face a major challenge in the apprehension of fugitives.

In conclusion, Equatorial Guinea affirms its firm commitment to strengthening the rule of law and promoting justice by supporting the Mechanism in every aspect of its work as an instrument of the Security Council for administering justice and ending impunity, thereby achieving the international peace and security we desire. As President of the International Residual Mechanism for Criminal Tribunals, Justice Meron can take satisfaction in a job well done.

Mr. Miranda Rivero (Plurinational State of Bolivia) (*spoke in Spanish*): We are grateful for the briefings by Judge Theodor Meron, President of the International Residual Mechanism for Criminal

Tribunals, and Mr. Serge Brammertz, Prosecutor of the Mechanism, and would like to take this opportunity to reiterate our full support for their work in carrying out their mandates. My delegation expresses its appreciation to Judge Meron for his work during his mandate. We also underscore our gratitude for the delegation of Peru's active and diligent work in chairing the Informal Working Group on International Tribunals, and we thank the Office of Legal Affairs for providing its assistance and cooperation for the Group's meetings.

The work done by the International Criminal Tribunals for Rwanda and the former Yugoslavia over the past 24 years has made a significant contribution to the fight against impunity and played a leading role in the pursuit of justice. In that regard, given the closure of the International Tribunal for the Former Yugoslavia in December 2017, the International Residual Mechanism for Criminal Tribunals has the major responsibility of concluding the remaining trials transferred to its jurisdiction in a timely and effective manner. Accordingly, it must implement its mandate established pursuant to resolution 1966 (2010) and the provisions of resolution 2422 (2018) as effectively as possible, not only while continuing to uphold the jurisdiction, rights and obligations of both Tribunals, but also while taking on the important role of strengthening and supporting the work of national jurisdictions, in keeping with its establishment as a small, temporary and effective structure whose functions and size are to be reduced over time. In that regard, we want to highlight the assistance and cooperation provided by the Mechanism and the Office of the Prosecutor to national jurisdictions to strengthen and develop their capacities. We also emphasize and acknowledge the work they are doing to promote and preserve collective memory, as has been done in Sarajevo, where the first public information centre has been inaugurated, continuing and building on the initiative of the International Tribunal for the Former Yugoslavia.

We have taken note of the progress in the Mechanism's jurisdictional activities during the reporting period, as well as its conduct of appeal hearings and sentencing review proceedings. In that regard, we would like to highlight the holding of remote hearings as an innovative and effective initiative that should continue to be enhanced so as to ensure the greatest possible interaction among judges and address the risks that might arise in connection with securing data and confidential information in such cases. We

also want to emphasize the Mechanism's capacity to perform simultaneous functions in cases transferred to it from the two Tribunals, and we urge it to continue to harmonize and integrate its work while ensuring that the differences in working cultures between the offices in Arusha and The Hague do not affect it. We also note the issues related to the Mechanism's use of its allocated resources and urge that they be used effectively in order to enhance and maximize the Mechanism's work.

Despite the progress that has been made, we are concerned about the number of fugitives who have yet to be tried before the Tribunal despite the Prosecutor's continuing coordination efforts and requests for assistance. In that regard, we should keep in mind that States' cooperation is crucial to preventing impunity from undermining the work of the Mechanism and the international community in general. We therefore urge States to support the Prosecutor's efforts by collaborating and cooperating as much as possible. We also believe that it is important to reiterate that criminal responsibility lies with the individual and that no community or nation is responsible for acts committed by private individuals. In line with the spirit of justice that the Mechanism pursues and with the importance of ensuring accountability and reparation for victims, such people must always answer for their acts.

Early releases and the problems that result from such decisions are issues that urgently demand our attention, since there are gaps in the criteria that must be considered in their application. In that regard, we call on the Mechanism to take the necessary measures through its various bodies to resolve that issue and ensure that the legacy and work of the Tribunals for Rwanda and Yugoslavia are not undermined or nullified by the release of individuals who either deny or refuse responsibility for crimes against humanity. Similarly, reducing and commuting sentences runs counter to their very purpose, which is rehabilitating and reintegrating perpetrators.

We take note of the progress reported regarding the recommendations by the Office of Internal Oversight Services on the Mechanism's functions and work from 2016 to 2017, and we encourage its various bodies to continue implementing them in full. Lastly, we encourage the Mechanism to continue to develop its jurisdictional activities with determination, while making effective and efficient use of the resources allocated to it, keeping its temporary status in mind and

taking the necessary steps to implement appropriate measures for the short and medium term.

Mr. Kuzmin (Russian Federation) (*spoke in Russian*): We would like to thank the leadership of the International Residual Mechanism for Criminal Tribunals for the report (see S/2018/569) on its activities. We have been closely following its work, including all the judicial proceedings under way.

Going on the report, since our previous briefing (see S/PV.8278) the Mechanism's work has largely come to a standstill. It is increasingly reminiscent of the International Tribunal for the Former Yugoslavia (ICTY) in the worst periods of its existence. We have recently been alarmed as we have witnessed judges being reshuffled, especially those presiding over the Appeals Chamber. All of that chaos goes back a long way and is specifically rooted in the irresponsible approach to the procedure for selecting the judges in the *Radovan Karadžić* and *Ratko Mladić* appeal cases. As we all know, the Security Council and the General Assembly have added a number of new names to the roster of judges. But the Mechanism's leadership still sees to it that it is those who worked under the ICTY who have the most to do with those cases. Hence the problems.

We have studied all the publicly available information on the Mechanism's recent rulings in the *Mladić* and *Karadžić* cases. It seems that amid the procedural skirmishing and mutual settling of scores, the Mechanism's leaders have forgotten that they hold in their hands the fate of human beings who are expecting to see justice fairly done. However, the Council is being asked to simply resign itself to the fact that it will have to wait several more months for a decision on the *Karadžić* case while the new presiding judge in the Appeals Chamber familiarizes himself the case file. We hope he will not need as much time as his counterpart in the *Vojislav Šešelj* case.

We have taken note of Judge Joensen's decision not to refer a contempt-of-court case to the Rwandan authorities. As we understand it, he believes that the trial will very probably begin and end faster if it remains under the Mechanism. We would like to hope for that. We will see how things actually pan out.

The problems of providing the accused with timely and appropriate medical care are also still on the agenda. We are still concerned about the casual attitude to *Ratko Mladić*'s health and we have repeatedly

demanding that he receive high-quality examinations and treatment. We reiterate that if that task is beyond the Mechanism's prison doctors, *Mr. Mladić* should be temporarily released for treatment in Russia or Serbia.

Our attention has once again been drawn to the sections of the report on the Residual Mechanism's capacity-building assistance to national judicial bodies that are prosecuting war-crimes cases. I feel obliged to point out that there is no such mandate for the Office of the Prosecutor in the Mechanism's founding documents, and certainly none for such work in countries that have no relation to the situations under the Residual Mechanism's jurisdiction. We once again urge the Mechanism to cease its inappropriate expenditure of the financial and human resources allocated to it. We expect it not to be distracted by tasks outside its remit according to the Statute and to focus on fulfilling the functions assigned to it as quickly and effectively as possible.

Mr. Temenov (Kazakhstan): I would like to thank Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Serge Brammertz for their informative and comprehensive briefings on the Residual Mechanism's semi-annual progress report.

We would like to take this opportunity to express our deep appreciation to the outgoing President of the Mechanism, Judge Meron, for his outstanding and invaluable work, and to wish him every success in his future endeavours. We also want to commend Ambassador Gustavo Meza-Cuadra of Peru for his able chairmanship of the Informal Working Group on International Tribunals, as well as the Office of Legal Affairs for its continued support.

Kazakhstan greatly appreciates the Mechanism's role and place in the administrative system of international justice, in helping to preserve our faith in international law and ensuring that those guilty of grave crimes will not go unpunished. My delegation notes with satisfaction the successful continuation of the Mechanism's core responsibilities inherited from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, such as the enforcement of sentences, the protection of victims and witnesses and the management of archives. We welcome the fact that despite the difficulties the Mechanism has faced owing to constraints on its resources, it has made significant progress in

establishing itself as a small, temporary and effective structure. We are pleased to hear from Judge Meron that the Mechanism benefited from the recommendations of the Office of Internal Oversight Services, thereby ensuring the efficient and effective fulfilment of the Mechanism's mandate.

Given the paramount importance of Member States' cooperation with the Mechanism to ensure that international justice is served, we call on all States to fully engage with it and comply with its judgments. We also encourage the Security Council to be united in its support for the Mechanism. In the context of the Mechanism's task of locating and arresting remaining fugitives, we are pleased with the Prosecutor's more proactive efforts in that regard and hope they will be arrested and brought to justice as soon as possible. We also welcome the Prosecutor's strengthened cooperation with the Rwandan authorities, which will improve access to evidence.

I would like to mention the work that the Mechanism is doing with regard to the archives of both Tribunals, which is truly priceless for both practical and research purposes. We support its implementation of an integrated system for managing archives and records.

In conclusion, we affirm our firm commitment to upholding the principles of justice, accountability and the rule of law around the world by supporting the Mechanism in every aspect of its work until it completes its mandate.

Ms. Habtemariam (Ethiopia): I would like to start by thanking Judge Meron and Prosecutor Brammertz for the assessment report on the work of the International Residual Mechanism for Criminal Tribunals, and for their briefings today. I would also like to join other speakers in commending Judge Meron for his work as presiding Judge, and we wish the incoming President, Judge Agius, every success. I will just make four brief points.

First, we welcome the measures taken by the Mechanism, including the Office of the Prosecutor, to further enhance its efficiency and streamline its internal working methods, despite its small staff and tight resources. We note with appreciation the work done by the Mechanism since assuming its residual responsibility, and the measures taken by the Office of the Prosecutor to assist and build capacity in national criminal-justice sectors with a view to supporting

the prosecution of war-crimes cases arising from the conflicts in Rwanda and the former Yugoslavia.

Secondly, we have noted the challenges raised in the assessment report in relation to the General Assembly's decision not to approve the Mechanism's biennium budget for the period from 2018 to 2019. While we welcome the measures taken by the Mechanism to reduce the impact of that decision, its implications for the Mechanism's long-term planning and operations and the completion of its functions in a timely and effective manner, as well as its impact on the protection of victims and witnesses, require further attention.

Thirdly, we continue to note with concern that eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR) remain at large. In that regard, we welcome the measures taken by the Office of the Prosecutor to track and arrest the remaining fugitives, including by establishing a tracking team and cooperating with relevant actors such as INTERPOL. In our view, the cooperation of such relevant international organizations and States remains critical to pursuing the remaining eight fugitives. We therefore join the call for assistance from relevant States in this task. It is important that they continue to provide the necessary assistance to the Office of the Prosecutor, including in tracking those fugitives.

Fourthly, we note with concern some of the issues that continue to be raised in relation to the early release of people convicted by the ICTR or the Residual Mechanism. We have particularly noted the concern raised by the Prosecutor of the Mechanism regarding unconditional early release, which has often led to the denial of crimes and criminal responsibility. In our view, consultation on early release between the President of the Mechanism and the country concerned, Rwanda, particularly its implications for victims and the community at large, is extremely important. In this regard, lessons could be drawn from the Residual Special Court for Sierra Leone. We encourage the incoming President and the Office of the Prosecutor to look into this matter.

In conclusion, I would like to reiterate the need for the Council to provide continued support to the Mechanism so it can fulfil its mandated residual functions. I would also like to encourage Member States to strengthen their support for the Residual Mechanism, including in relation to the tracking of fugitives and

relocation of acquitted or released persons, as well as addressing budget-related issues.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of Côte d'Ivoire.

My delegation welcomes Judge Theodor Meron and Mr. Serge Brammertz in their respective capacities as President and Prosecutor of the International Residual Mechanism for Criminal Tribunals for their informative briefings. We also congratulate Ambassador Gustavo Meza-Cuadra, Permanent Representative of Peru, on the work he has accomplished as Chair of the Informal Working Group on International Tribunals.

My delegation welcomes the progress made in the work of the Mechanism with regard to its judicial activities, including those pertaining to the enforcement of rulings, the protection of victims and witnesses, archive management, and the prospect of improved conditions for the implementation of the early-release regime following the adoption of Security Council resolution 2422 (2018). We encourage the Mechanism to continue and complete the implementation of the recommendations of the Office of Internal Oversight Services (OIOS), as set out in the progress report issued by the OIOS in March, in order to achieve the objectives set by the United Nations in line with resolution 1966 (2010).

Notwithstanding the progress that has been made by the Mechanism in the fulfilment of its mission, Côte d'Ivoire is concerned by the persistence of challenges yet to be overcome, particularly with regard to Member States' cooperation with the institution and judicial cooperation between the countries of the former Yugoslavia. In this regard, my delegation reaffirms the importance of States' cooperation with the institution in implementing the Mechanism's mandate, especially in connection with the search, arrest and transfer of fugitives and the implementation of the rulings handed down. We therefore encourage all Member States to further strengthen their cooperation with the Mechanism, and we appreciate the contribution of those countries providing multifaceted support.

Côte d'Ivoire is of the opinion that judicial cooperation among the countries of the former Yugoslavia is essential for the search and arrest of perpetrators of war crimes who are no longer present in the territory where they are presumed to have committed such crimes. My delegation therefore urges

national authorities to play an active role in the fight against impunity by adopting concrete measures to improve judicial cooperation in the region.

In conclusion, on behalf of my delegation, I would like to pay tribute to Mr. Theodor Meron, President of the Mechanism, who will step down from his post on 18 January 2019, following several years of tireless work in the service of international justice. I would also like to wish Judge Agius, who will succeed President Meron in January, every success.

I now resume my functions as President of the Council.

I give the floor to the Minister of Justice of Serbia.

Ms. Kuburović (Serbia): I thank the Security Council for this opportunity to address it today on behalf of the Republic of Serbia.

Since the establishment of the International Tribunal for the Former Yugoslavia (ICTY), in 1993, and the International Residual Mechanism for Criminal Tribunals after the ICTY completed its work, Serbia has, for the last quarter century, been travelling on a path of cooperation with the institution. Much has been done in this time. Speaking in this very Chamber in December 2017, I said that

"[f]ighting impunity for the most serious international crimes and efficiently prosecuting war crimes were the key reasons for the establishment of the International Tribunal for the Former Yugoslavia." (*S/PV.8120, p. 30*)

Regrettably, the Tribunal has not realized the purpose for which it was established, nor has it provided answers to many important questions.

Serbia's cooperation with the Mechanism has been successful, and my country has fulfilled all its obligations. The results are also noticeable within its national legislative system, and its cooperation with the Mechanism has run unimpeded. The Office of the Prosecutor of the Mechanism has been given free access to all evidence, archives and witnesses. Requests have been attended to, and responses are being provided to the Office, Chambers and Secretariat of the Mechanism, including those related to classified Government and military documents. Witnesses have been cleared of the obligation to keep Government, official and/or military secrets.

As early as last June, a single Judge of the Mechanism ruled that the contempt-of-court case *Prosecutor v. Petar Jojić and Vjerica Radeta* be referred to Serbia, and the decision on the appeal of the Amicus Curiae Prosecutor is still pending. If the case is referred to the Serbian judiciary, it will be a step forward in my country's relationship with the Mechanism. As a State with an independent judiciary, Serbia can — and is willing to — comply with the obligation to try the case in accordance with the highest standards of judicial independence and the rule of law. In this context, let me point out that, during the case-referral process, the Amicus Curiae made comments in its submissions that were inappropriate and not founded on the legal facts or evidence, which accounted for the delays in the procedure. Considering that a small number of cases are before the Mechanism, we might conclude that not much work remains for the Mechanism to carry out. However, the legacy of the ICTY includes important questions that still should be addressed, lest they remain unresolved.

Ten years ago, Serbia launched an initiative to have its citizens who had been sentenced by the Tribunal serve their sentences in Serbia. When the initiative was launched, my country was motivated by a firm commitment to assuming the responsibility for enforcement of sentences. The purpose of punishment includes, inter alia, the social reintegration of sentenced persons. I believe that we can hardly expect this purpose to be fulfilled if sentenced persons serve their sentences in faraway countries where they do not understand the language, where the possibility of enlisting the help of a translator or receiving visits from and maintaining contact with friends and relatives are limited, and where medical treatment is inadequate. After all, nine persons of Serbian nationality have died during trials or while incarcerated.

Let me highlight the particularly difficult situation of Serbian nationals Milan Martić and Dragomir Milošević, who are serving their sentences in Estonia. I have already spoken of them on a number of occasions in this Chamber and with Judge Meron, President of the Mechanism. The International Committee of the Red Cross has also reported on their case. The position taken by the Secretary-General in his report to the Security Council on 3 May 1993, namely, that, given the nature of the crimes in question and the international character of the Tribunal, the enforcement of sentences should take place outside the territory of the former

Yugoslavia, can hardly continue to be taken as valid. It made some sense while the war went on in the country. However, the situation today is altogether different, and my country insists that the question be reconsidered.

During his visit to Belgrade in November, President Meron gave his assurances that there were no obstacles to realizing this initiative. He advised that it be brought to the attention of the Security Council, under whose resolutions the Tribunal and the Mechanism have been established. I therefore take this opportunity to call on the Secretary-General to instruct the Mechanism to assess the initiative and make it possible for the Security Council to consider the current practice relative to the enforcement of sentences and decide on how to approach change.

Serbia is ready to accept strict international monitoring and provide guarantees that sentenced persons will not be released without a decision by the Mechanism. We invite its representatives, as well as representatives of other relevant institutions appointed by the Secretary-General, to visit Serbia and tour its prisons to assess the capacities and conditions of the facilities themselves. Let me reiterate that my country will continue to advance the initiative, all the more so as the sentenced persons are advanced in age and the majority of them are not in the best of health.

In February 2016, Serbia adopted a national strategy for the prosecution of war crimes for the period 2016-2020, thereby demonstrating its commitment to building up its national judiciary and supporting all judicial and administrative investigative agencies, as well as other independent monitoring and reporting organizations. Since the decision of the Government to establish a working body to monitor the implementation of the strategy in August 2017, four reports have been submitted on the progress made so far, the most recent of which was submitted on 21 November.

The adoption of the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in the Republic of Serbia in the period 2018 to 2023, in accordance with the Action Plan for Chapter 23 and the National War Crimes Prosecution Strategy, accentuated the importance of greater efficiency in processing war crimes. The funds to enhance the capacities of the Prosecutor's Office have been provided by the Government, while the number of the employees of the Office, in particular of Deputy Prosecutors, has been increased. Five new Deputies have been

appointed since the last meeting of the Security Council on this agenda item, in June (S/PV.8278). The Prosecutorial Strategy has also been commended by the Prosecutor's Office of the Mechanism. During the visit of Prosecutor Brammertz in October, agreement was reached on organizing a prosecutors' training course in March 2019, in cooperation with the Belgrade's Judicial Academy and as part of the Prosecutor of the Mechanism's support for Serbia. Mr. Brammertz will be one of the lecturers.

The progress report of the Prosecutor of the Mechanism notes that regional judicial cooperation in war crimes matters between the countries of the former Yugoslavia is at its lowest level in years and faces increasingly immense challenges. The report goes on to say that decisive action is needed to reverse the current negative trends and ensure that war criminals do not find safe haven in neighbouring countries.

It is important to note that, ever since the Tribunal was established, it adopted a selective, ethnically-tainted approach when it came to the number of both indictments in and case referrals to the judiciaries of the successor States of the former Yugoslavia. It turns out that, in the past, the Tribunal had the greatest confidence in the judicial institutions of Bosnia and Herzegovina. In more literary parlance, those courts used to be *i favoriti della regina*. This conclusion is borne out of the following data. The largest number of cases have been referred to courts in Bosnia and Herzegovina for trial: 6 out of 10 persons indicted by the ICTY. Most of them were Serbs. In contrast, Serbia and Croatia have received one case each, and none of those referrals concerns persons indicted for crimes against Serbs. Does that mean that no crimes have been committed against the Serbian population and that no one is responsible for the killing, torture and persecution of Serbs?

Notwithstanding the selective approach by the Tribunal, we can hardly agree with the assessment in the Mechanism's report that cooperation among countries of the region has been inadequate and that there has been equal refusal to cooperate. My country has made every effort to cooperate with the Mechanism and expects inter-State cooperation in the region to be at an appropriate level. Serbia has concluded bilateral agreements with Bosnia and Herzegovina and Croatia, while cooperation among regional judiciaries is based on the agreements concluded among the relevant Offices of the countries of the region and the Office of

the War Crimes Prosecutor of the Republic of Serbia. We are fully committed to the full implementation of the agreements and relevant protocols. Unfortunately, not all of the countries in the region share this position. Let me point out in this context that my country's cooperation with Bosnia and Herzegovina in the provision of legal assistance is at a very high level. It is our hope that we will achieve this level of cooperation with Croatia.

Last March, a meeting between the Ministers of Justice of the Republic of Serbia and the Republic of Croatia was held in Belgrade. As a result, two commissions were established, one to exchange lists of persons indicted or sentenced for war crimes, and the other to draft a bilateral agreement relative to the processing of war crimes. The first commission has completed its task, while the second has been continually working on its assignment; a meeting of the latter commission's members is expected to be convened this month. We firmly believe that this is an important step forward in addressing outstanding bilateral issues, even though Croatia continues to try Serbs in absentia and without facts or sufficient evidence and, in the opinion of many, passes judgments lightly, thereby deliberately preventing Serbs expelled from Croatia from being able to return home. Serbia does not try cases in absentia; indeed, dozens of cases have simply been suspended.

From 1 January to 30 November, eight new indictments were confirmed by the Office of the War Crimes Prosecutor of the Republic of Serbia against 12 persons. Six of the indictments were transferred from the Prosecutor's Office of Bosnia and Herzegovina and one, against two persons, from the Prosecutor's Office of the Republic of Croatia. In 24 cases, the Office of the War Crimes Prosecutor of the Republic of Serbia received no response from the Prosecutor's Office of the Republic of Croatia on requests for evidence and information, despite the terms of the cooperation agreement.

Some 103 persons, most of them of Serbian nationality, have been tried in 23 cases in the War Crimes Department of the Higher Court in Belgrade; judgments in two cases were handed down right before the convening of today's meeting. That is eloquent proof that Serbia is ready to try all war crimes, irrespective of the citizenship of the perpetrator, which is not, I regret to say, the practice in the other countries of the region.

Unlike in a number of previous years, bilateral meetings of the Ministers of Justice of the Republic of Serbia, Bosnia and Herzegovina and the Republic of Croatia were held this year. I therefore see no reason why the efforts of the countries of the region, aimed at reconciliation, should not be given their due.

The progress report notes that judicial cooperation between Serbia and the self-declared State of Kosovo in war crimes matters had broken down. However, I would like to point out that cooperation is taking place through the United Nations Interim Administration Mission in Kosovo (UNMIK). UNMIK's competencies in the judicial field were set forth in the joint document signed by UNMIK and the Federal Republic of Yugoslavia in November 2001. All along, however, the judicial authorities of Serbia have been prevented from undertaking proceedings in cases of war crimes committed in the territory of Kosovo and Metohija. In addition to the refusal by Pristina to respond to cooperation requests by the Office of the War Crimes Prosecutor of the Republic of Serbia, UNMIK now makes INTERPOL notices related to Albanian terrorists from Kosovo and Metohija invisible for no apparent reason. UNMIK has not been mandated by the Security Council to act in this way. Yet still more serious consequences for the Serbian people in Kosovo and Metohija could result from recent irrational decisions taken by Pristina, and a humanitarian catastrophe of unprecedented proportions is possible. I hope that the international community will not remain silent and tolerate these blatant violations of basic human rights.

At the Western Balkans Summit in London on 10 July, the countries of the European Union and summit participants from the Western Balkans signed a joint declaration on missing persons, the key document upholding the rights of all families of the missing persons to truth, justice and compensation. The declaration, which was signed by the Prime Ministers of Serbia, Bosnia and Herzegovina, Albania, Austria, Bulgaria, Croatia, Germany, Italy, Poland, Slovenia and the United Kingdom, and the professed Prime Minister of Kosovo, expresses support for the efforts to find the 12,000 persons still listed as missing in conflicts in the former Yugoslavia. Of particular significance in the context of regional cooperation is the fact that, on 6 November, the Commission on Missing Persons of the Republic of Serbia signed the Framework Plan to Address the Issue of Persons Missing From Conflicts on the Territory of the Former Yugoslavia, at the

headquarters of International Commission for Missing Persons in The Hague.

It is particularly worrisome that the progress report points to the publication of the memoirs of General Pavković. The publication of memoirs of one participant in the war — and not the only participant — cannot by itself be construed as a glorification of the position of one side. Memoirs are personal views of the events, and, under article 19 of the Universal Declaration of Human Rights, everyone has the right to freely express his or her opinions. It is not clear how the memoirs of Serbian convicts are the only ones to have found their way into the progress report of the Mechanism presented to the United Nations, whereas the memoirs of others of different nationalities have not. The progress report states that a key tool for ensuring continued cooperation with the Mechanism is the policy of conditionality of the European Union, which links membership progress to full cooperation with the Mechanism. The Mechanism's position of asserting pressure on Serbia as we undergo European Union accession negotiations goes against the theme of cooperation with my country. That position has always illustrated that the Mechanism is of a political nature, not a legal one. That has been the Mechanism's principal shortfall from the time it was established.

In conclusion, let me point out that, notwithstanding that shortfall, the cooperation between Serbia and the Mechanism has been successful. There are no outstanding issues in our cooperation, and I trust and believe that the efforts invested by my country will be acknowledged and presented in the coming reports.

The President (*spoke in French*): I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Dronjic (Bosnia and Herzegovina): At the outset, let me congratulate you, Mr. President, on assuming the presidency of the Security Council for the month of December. It is nice to see an African country presiding over the Council. I would also like to thank Judge Theodor Meron, President of the International Residual Mechanism of the Criminal Tribunals, and its Prosecutor, Mr. Baron Serge Brammertz, for their reports. It seems as if Judge Meron has been a part of the Mechanism forever, and therefore it is hard to believe that he has just delivered his last report to the Council. I understand why he feels relieved to complete his mandate, and I wish him all the best in his future

endeavours. His legacy will be safe within the archives of the Mechanism.

We join others in taking note of the progress achieved by the Mechanism during the reporting period, as well as the additional advances it has made with regard to its residual functions. We also take note of the intensive efforts to strengthen its activities and improve its operations, procedures and working methods. It remains crucial to provide the necessary support for the work of the Mechanism and align together all the elements necessary for the successful conclusion of the its mandate within a reasonable period of time. It is of the utmost importance to highlight that, throughout the years, Bosnia and Herzegovina's cooperation with the International Tribunal for the Former Yugoslavia has been steadfast and full, as stated in the reports of the Tribunal. Accordingly, we remain committed to contributing actively to the Mechanism's efforts to accomplish its mission. Furthermore, we encourage the Mechanism to continue to seek ways to maximize the effectiveness and efficiency of its work in order to fulfil its mandate.

We appreciate the continued support and assistance of the Office of the Prosecutor to our national judicial authorities in charge of prosecuting war crimes cases, as that remains vital for us to pursue and fulfil our commitments. We are also fully aware that the main burden to ensure accountability for all the crimes committed lies primarily on us. Bosnia and Herzegovina remains committed to the fight against impunity. The precondition for that is to have accountable and independent judicial institutions that enjoy public trust throughout the country. That goes not only for prosecuting and punishing individual perpetrators of war crimes but also for achieving reconciliation among Bosniaks, Croats and Serbs, who are constituent peoples of Bosnia and Herzegovina.

We take note of the Prosecutor's assessments on the progress in achieving accountability for crimes committed in the former Yugoslavia, although national jurisdictions still face a significant backlog of war crimes to process. In that regard, Bosnia and Herzegovina attaches great importance to the promotion of stronger and more coordinated regional cooperation among prosecutors' offices. It is necessary for Member States to fully cooperate with the Mechanism in order for justice to be done. Likewise, judicial cooperation in the region remains essential to ensure accountability and bring about reconciliation. In that regard, the

cooperation between the State Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of the Republic of Serbia is recognized as a productive example of that. Genuine reconciliation strength lies in our joint efforts to deliver justice to the many victims within our region. As noted, the Prosecutor's Office of Bosnia and Herzegovina has made steady improvement in prosecuting war crimes cases. During the reporting period it filed 16 new indictments, and more are expected by the end of the year. That includes indictments in complex cases. As for the so-called category II cases, it has been noted that they have all been processed, and trials and appeals are under way. Overall, significant progress has been achieved, and we remain committed to proceeding in the same manner.

We are continuing our overall efforts to strengthen the national justice systems at all levels. We are currently in the process of identifying and defining further activities necessary to advance the implementation of our national war crimes strategy in order to bring to justice persons responsible for war crimes. In that regard, we also rely on the continued support of the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme in order to strengthen the human and material resources of judicial institutions to process war crimes cases in Bosnia and Herzegovina, and for general capacity-building, which is important for the full implementation of the measures and goals set out in our national war crimes strategy.

The fight against impunity in a complex, multinational State such as Bosnia and Herzegovina is a precondition for achieving reconciliation and sustaining peace. In that regard, prosecuting war crimes, regardless of the national or religious affiliation of the perpetrators or victims, is of crucial importance for long-term stability in the country and the region. Once again, we confirm our strongest commitment to accountability and the delivery of justice without selectivity or hesitation.

The President (*spoke in French*): I now give the floor to the representative of Croatia.

Mr. Drobnyak (Croatia): I welcome the honourable President of the International Residual Mechanism of the Criminal Tribunals, Judge Theodor Merz, as well as its Prosecutor, Mr. Serge Brammertz, and I thank them for today's briefings on the work of the Mechanism. At

the outset, let me express our gratitude to and praise for Judge Meron for all he has accomplished as President of the Mechanism, and prior to that at the International Tribunal for the Former Yugoslavia (ICTY). I would also like to congratulate Judge Carmel Agius on his appointment as President of the Mechanism as of 19 January 2019 and wish him every success in his future endeavours.

Croatia fully supports the Mechanism in its mission to bring to justice the most prominent perpetrators of the horrible crimes committed during the 1990s in the territory of the former Yugoslavia. A significant number of victims and their families still have not received long-awaited justice, and we hope that the work of the Mechanism will contribute to that. It is therefore important to avoid any delays or setbacks in the implementation of the Mechanism's mandate. Croatia has not hesitated to do its part in ensuring accountability. Many trials have been completed to date and some are still ongoing. However, there are war crimes cases that have not been fully investigated or prosecuted yet. We owe it to the victims of those atrocities to leave no judicial stone unturned. Croatia thus continues to investigate and prosecute war crimes committed in its territory since 1991 onwards.

At the same time, Croatia continues to pay great attention to the remaining cases before the Mechanism. They are of the utmost importance to the legacy of accountability for aggression against Croatia and Bosnia and Herzegovina in the last decade of twentieth century. We expect all of them to be completed within a reasonable period of time, without any delays.

When it comes to the efficiency and time management of proceedings, the work of ICTY, which closed its doors a year ago, is not the best case to follow. The Residual Mechanism must draw the necessary lessons from the ICTY's shortcomings and ensure the steady and unimpeded progress of all its proceedings.

The Mechanism's functions are clearly defined and include the tracking and prosecution of remaining fugitives, appeals proceedings, review proceedings, retrials, trials for contempt and false testimony, monitoring cases referred to national jurisdictions, the protection of victims and witnesses, the supervision of the enforcement of sentences, assistance to national jurisdictions upon request, and the preservation and management of archives. These are important tasks and Croatia extends all its support to Mechanism's efforts

to meet them in full. At the same time, we expect the Prosecutor, in fulfilling his functions, to focus squarely on cases and tasks assigned to him by the Mechanism's agenda and mandate.

Cooperation with the Mechanism, as previously with the ICTY, as well as regional cooperation among the States concerned pertaining to war crimes issues, have no alternative. Croatia also attaches great importance to continued constructive cooperation with other States of the region. Nonetheless, it has to be emphasized that meaningful regional cooperation is not a one-way street. It requires trust among the States concerned and goes hand in hand with the willingness and sincere commitment of all States to prosecute war crimes, without any double standards or exemptions in relation to their nationals or members of certain national groups.

We are deeply concerned over the spreading practice of denial of past wrongdoings throughout the region. That revisionism goes hand in hand with the glorification of war criminals and the crimes committed. All of this evokes the traumas of the past and has destructive effects on the stability of the region.

The issue of missing persons remains at the top of our agenda, with many cases remaining unsolved. Cooperation among States of the region is a necessary precondition for the successful completion of the process of clarifying the fate of missing persons and providing relief to their families. Certain small steps forward have been made, but much more needs to be done, and there is not one justified reason to delay the identification of a thorough solution to this problem. Serbia still shows no readiness to open its archives, which would be a crucial step forward. We welcome the role of the Mechanism in supporting the search for missing persons, and in this regard we note the cooperation established between the Office of the Prosecutor and the International Committee of the Red Cross following their recent signature of a memorandum of understanding.

In conclusion, I would like to reiterate, as I have on many occasion before, that Croatia remains firmly committed to development of good relations and cooperation with neighbouring States, and we strongly support their aspirations towards the European Union, based on strict and full compliance with the membership conditions.

The President (*spoke in French*): I now give the floor to the representative of Rwanda.

Mrs. Rugwabiza (Rwanda): Mr. President, I thank you, Sir, and Côte d'Ivoire for organizing today's debate. Since the beginning of Côte d'Ivoire's presidency last week, this is the third debate you have organized and the third time I am addressing the Council this month. It is a testament both to your productive presidency and to the vital pertinence to Rwanda of the issues you have focused on.

I thank Judge Meron and Prosecutor Brammertz for their briefings. I also take this opportunity to thank Prosecutor Brammertz for the cooperation between his Office and the Office of the Prosecutor General of Rwanda and other judicial authorities, particularly with regard to recent judicial activities relating to cases of contempt of court and incitement to commit contempt of court in which five Rwandan nationals, including a former investigator on one of the genocide convicts defence team, have been charged with participating in a joint criminal enterprise to overturn the conviction of Augustin Ndirabatsire, a genocide convict who was a Minister in the Government that abetted the genocide in 1994. Many others who have spoken before me have referred to that case.

In another recent development in Rwanda, in September more than 2,000 inmates convicted of various crimes, including genocide denial, were granted early release. That is further evidence of Rwanda's choice to pursue restorative justice rather than retributive justice. These developments remind us that the pursuit of justice for crimes of genocide requires a long-term commitment — a commitment that necessitates resolve, consistency and an understanding of the essential contribution of justice to ending a culture of impunity.

As we mark the seventieth anniversary of the adoption of the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide, let us all remember that it is not for lack of legal frameworks that the 1994 genocide against the Tutsi in Rwanda was perpetrated. Frameworks are only frameworks; they do not implement themselves; institutions and people do. They require consistent implementation and enforcement by national institutions.

We also note that this is the final briefing by Judge Theodor Meron. This is a time for us to look at what has been achieved, but more importantly this is a point

of transition that provides us with an opportunity not only to take stock of the work done by the Mechanism but also offer the incoming President recommendations that Rwanda believes can strengthen the work of the Mechanism.

Of pivotal importance, we expect the next President to improve the methods of work of the Mechanism by making them more transparent, accountable and inclusive of all stakeholders' views. The point we are making here seems like very basic common sense; however, recent years have shown us that common sense has at times eluded the Mechanism, not least in its treatment of early releases of genocide convicts. The lack of consistency is the widest avenue to partiality. We find it strange that our consistent demands for consistency and accountability have at times been considered as carrying political connotations. Consistency and accountability have never undermined the independence of judicial processes; if anything, they actually protect it. As a Member State and a stakeholder in the Mechanism, Rwanda cannot overstate the importance of improved transparency and accountability in the Mechanism.

I wish to make four simple recommendations, all of which my Government has consistently articulated but are yet to be implemented.

First, the force and effect of international criminal law must be strengthened by instituting a comprehensive provision for conditional early release of genocide convicts who are deemed eligible for early release. Secondly, we must combat genocide ideology in all its manifestations and forms, including genocide denial by those who have been convicted of genocide and have benefited from early release. Thirdly, we must step up our efforts and collaboration among States to apprehend fugitives that remain at large. Fourthly, we must send the genocide convicts still in the custody of the Mechanism to serve out the remainder of their sentences in Rwanda. Those are the four simple recommendations that my Government wishes to make.

At this stage, we commend the leadership of the Permanent Representative of Peru as the Chair of the Informal Working Group on the International Tribunals. My Government takes note that, as an initial result of the implementation of resolution 2422 (2018), conditions for early release have been applied by the Mechanism to one convict seeking early release. That is encouraging, but, again, we note the lack of

consistency. What is the justification for this ad hoc approach? Why only one? We urge the Mechanism to put in place comprehensive, consistent and rigorous provisions for all grants of conditional early release, based on clear eligibility requirements. We once again point to the Residual Special Court for Sierra Leone as a best practice.

Having a comprehensive and rigorous approach to conditional early release would ensure that the Court grants conditional release only to those who have demonstrated adequate rehabilitation, and avoid the repeated occurrence of what has been reported by the Prosecutor, that “those granted early release often deny the crimes and their criminal responsibility immediately upon release” (S/2018/1033, *annex II, para. 30*).

The Mechanism should also step up its efforts aimed at monitoring the activities of genocide convicts who have benefited from early release, and who are nevertheless indulging in activities that propagate genocide ideology and genocide denial. We continue to witness groups purporting to speak on behalf of genocide convicts, sometimes involving individuals who once worked with the Tribunal. We will gladly share details with whomever is interested.

Sending genocide convicts to serve out the remainder of their sentences in Rwanda would be beneficial to the Mechanism, to Rwanda and to the broader membership. It would help alleviate the funding constraints faced by the Mechanism, but more importantly, the rehabilitation of convicts would be

accelerated by serving out their sentences in Rwanda, where they committed their crimes.

The success of Rwanda’s restorative justice system has been well documented. Our focus on restorative justice, rather than retributive justice, has enhanced our ability to reconcile and live together in unity, even after the genocide and after such horrible crimes. In addition, Rwanda’s capacity to ensure high standards of justice is seen in a number of cases from other States being successfully referred to Rwanda for trial. It is now evening in Kigali. As we speak, a Rwandan genocide suspect, Mr. Wenceslas Twagirayezu, who sought refuge in Denmark, is being extradited to Rwanda to face justice. He is landing in Rwanda now, as we speak.

Finally, we take note of the Prosecutor’s progress in tracking genocide fugitives. We join him in calling on Member States to cooperate with the Mechanism in order to locate and apprehend the remaining fugitives. These fugitives have not left for outer space; they are living peacefully and quietly in host countries, many of which are members of the Council, and some of which are incoming members of the Council starting early next year. We expect all Council members — current and incoming — to lead by example by matching their pronouncements of commitment to international justice with tangible steps, either by prosecuting fugitives themselves or by fulfilling their international obligations through effective cooperation with the Prosecutor of the Mechanism.

The meeting rose at 12.45 p.m.